IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mika H. Laaksonen

Title: PROCESSING IMAGES OR
               AUDIO REPRESENTATIONS

Appl. No.:   10/036,182

Filing Date: 12/28/2001

Examiner: Jones, Heather R.

Art Unit: 2621

Confirmation   4864
Number:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the New **Pre-Appeal Brief Conference Pilot Program**,
announced July 11, 2005, this Pre-Appeal Brief Request is being filed together with a Notice
of Appeal.

REMARKS

Applicant wishes to thank the Examiner for the courtesies extended during the
telephonic interview of March 20, 2009, at which time the present application and
outstanding rejections were discussed, but respectfully submits that the outstanding final
Office Action of December 23, 2008 is improper for the following reasons.

In the final Office Action, the Examiner maintained the rejection of claims 1-6 and 8-
31 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,657,658
(Takemura) in view of U.S. Patent No. 6,650,365 (Sato).

MPEP § 707.07(f) states that "[w]here the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it." In this instance, although the Examiner maintained the rejection of claims 1-6 and 8-31, the Examiner did not provide a substantial answer, rebuttal, or further evidence to support the position that: (1) Takemura teaches storing the most recent information indicative of modifications/adjustments; and (2) Sato was considered in its entirety as required by MPEP § 2141.02 in asserting the combination of Takemura and Sato. To wit, the Examiner's response at pages 2-3 of the outstanding Office Action is a near-verbatim copy of the June 13, 2008 Office Action with regard to Takemura, and a brief indication that the entirety of Sato need not be considered. Therefore, Applicant respectfully submits that the outstanding final Official Action is improper.

Additionally, Applicant incorporates herein by reference in its entirety, the previously presented arguments of Applicant's response filed September 11, 2008. That is, and with regard to independent claims 1, 10, 18, and 31, Takemura teaches a system and method of allowing modifications/adjustments to image data before a "final" image or picture is output, e.g., in the form of a physical print. (*See, e.g.,* Abstract, Column 7, lines 29-59, Column 8, line 30-Column 9, line 12 of Takemura). Thus, Takemura intends to obviate any need for "trial and error" processing so that an end user or customer may see a "preview" image and confirm that the modifications/adjustments to be made to the image data are as he/she desires. (*See, e.g.,* Column 1, lines 60-67, Column 2, lines 13-26, and Column 5, lines 52-67 of Takemura). Operation of the system and method taught by Takemura involves performing all modifications before the final image is output, where the modifications are finally applied to the image data. Hence, despite not altering image data while "previewing" potential modifications, Takemura nonetheless results in actually altering the original image data to arrive at the final image. (*See, e.g.,* Column 8, line 30-Column 9, line 12 and Column 10, line 20-Column 11, line 20 of Takemura). Takemura merely contemplates reproducing a first image in accordance with a first image file, reproducing a second image in accordance with a second image file and so on. In no way does this suggest that, e.g., the same image is adjusted/modified, where the most recent information indicative of adjustments/modifications is stored so that any "subsequent" processing modifications/adjustments may progress from

the most recent modification/adjustment information. To wit, Takemura fails to teach or suggest any sort of data storage and re-storage of "finish" information during and/or after the initial preview image is shown for confirmation and the finish information is finally set.

In contrast, independent claims 1, 10, 18, and 31 require that image/audio data is stored along with the most recent information regarding adjustments to the image/audio data, thus allowing content to be stored with adjustment information so that the content, unlike that in Takemura, can remain "untouched" even with successive adjustments. For example, page 9, lines 23-32 of the present application describes that there is no need to recompress/decompress the image data which may lead to a loss in image quality. Therefore, Applicant submits that Takemura fails to teach at least the use and/or storage of most recent information indicative of adjustments/modifications made to, e.g., an image or audio representation as required in independent claims 1, 10, 18, and 31.

The Examiner correctly recognized that Takemura fails to teach storing image data in a lossy format. However, the Examiner maintained that Sato cures this deficiency of Takemura because storing images in a lossy format would allow Takemura "to take advantage of the lossy compression algorithms which... discards information that cannot be seen, which allows the image to be further compressed..." (*See, e.g.,* page 4 of the final Office Action). Applicant disagrees and submits that it would not have been obvious for one of ordinary skill in the art to have combined Sato and Takemura, and even if such a combination were to be made, Sato would vitiate the purpose and operation of the system/method of Takemura.

Sato teaches a device comprising, e.g., a memory device having an image recording area and an information recording area, where an image signal is subjected to image correction and recorded on the memory device. Thereafter, if the image signal is to be sent/displayed on an alternative display, the image correction may be reversed by reprocessing the corrected image signal. (*See, e.g.,* Abstract and Column 1, line 33-Column 2, line 8 of Sato). That is, the processes used to arrive at the corrected image are performed in reverse so that the image can be returned to an "unaltered" state. (*See, e.g.,* Abstract and Column 2, lines 8-17 of Sato). Sato further describes that the operations indicated above

involve, e.g., compression and recompression processes, according to a JPEG (lossy) algorithm. (*See, e.g.,* Column 3, lines 23-44 of Sato).

In light of the above, Applicant submits that the device taught by Sato operates in a manner that is entirely contrary to the system and method of Takemura. As described above, the system and method of Takemura is premised on performing all modifications/adjustments before a picture is, e.g., output in its final format. Again, Takemura at Column 5, lines 65-67 indicates that, "[a]ccordingly, a photographic print or a reproduced image in the desired finish can be surely obtained without repeating trial and error." That is, the purpose of Takemura is to avoid the need to repeatedly perform processes after an image is output in its final form. Because Sato explicitly teaches that an image must be compressed and recompressed, corrected, reverse-processed to remove the corrections, modifying the system and method of Takemura with such processes would be contrary to the purpose and operation thereof. Thus, Applicant submits that it would not have been obvious for one of ordinary skill in the art to have combined the teachings of Sato and Takemura because Sato teaches away from Takemura and because the alleged combination thereof would result in a system/method that operates in manner contrary to the disclosed operation of Takemura. Further still, although it is understood that the Examiner's intent was to rely solely on the JPEG/lossy format described in Sato, Applicant again submits that doing so would improperly ignore the entirety of the teachings of Sato for the reasons set forth above.

Moreover, Takemura explicitly suggests that the use of lossy compression would run counter to the purpose of Takemura because Takemura teaches, e.g., enlarging image data by interpolation, and/or displaying an image on a monitor with "higher" resolution than that conventionally included in an in-camera LCD display. (*See, e.g.,* Column 5, lines 1-35, Column 9, lines 1-12 of Takemura). Thus, utilizing lossy compression to store the image data of Takemura would, e.g., reduce the ability to interpolate as there is less data/less accurate data to begin with, and because Takemura seeks to begin with the highest quality image data to arrive at the desired image processing/modification. Hence, Applicant submits that Sato cannot cure the deficiencies of Takemura.

In contrast to Sato and/or the alleged combination of Sato and Takemura, independent claims 1, 10, 18, and 31 explicitly require that image/audio data is stored in a lossy format along with the most recent information regarding adjustments that have been made to the image or audio data. Various embodiments disclosed in these claims provide a data unit/device/method enabling, e.g., image data, to be stored in a lossy format while preventing a loss in image quality that is conventionally experienced when making modifications. As described above, page 9, lines 8-32 of the present application describes shortcomings of the prior art/conventional lossy format storage, where the need to compress and recompress image data during and/or after processing can lead to a loss in image quality. As also described above, Sato describes precisely the type of device that various embodiments of the present application seek to improve upon. Therefore again, Applicant submits that Sato cannot cure the deficiencies of Takemura, nor would the alleged combination of Sato and Takemura teach or contemplate each and every required limitations of independent claims 1, 10, 18, and 31.

Furthermore, because dependent claims 2-6, 8, 9, 11-17, and 19-30 are each directly or indirectly dependent upon independent claims 1, 10, and 18, Applicant submits that each of these claims are allowable for at least the same reasons as discussed above.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance.

Respectfully submitted,

Date: June 22, 2009   By   /G. Peter Albert, Jr./

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]	Application Number 10/036,182	Filed 12/28/2001
On June 22, 2009	First Named Inventor Mika H. Laaksonen	
Signature		
Typed or printed name	Art Unit 2621	Examiner Jones, Heather R.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

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Registration number if acting under 37 CFR 1.34

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Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒   *Total of 1 forms are submitted.